

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Heidi Guzman	Team: Bias Squad #02	CCRB Case #: 202300694	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/07/2023 8:46 PM, Saturday, 01/07/2023 9:00 PM	Location of Incident: Saint Felix Street and Fulton Street	18 Mo. SOL 7/7/2024	Precinct: 88
Date/Time CV Reported Thu, 01/12/2023 1:40 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 01/25/2023 1:14 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Ian Johnson	03648	950642	088 PCT
2. PO Alex Campuzano	11885	960315	088 PCT
3. DTS Jeffrey Perez	01450	961090	088 PCT
4. Officers			
5. PO George Gouvousis	21578	969098	088 PCT
6. PO Danny Rodriguez	13434	957089	088 PCT
7. PO George Rowen	17129	961208	088 PCT
8. SGT DS Kitwane Lewis	04105	951915	INT CIS

Officer(s)	Allegation	Investigator Recommendation
A . DTS Jeffrey Perez	Abuse: Detective Jeffrey Perez stopped the vehicle in which § 87(2)(b) was an occupant.	
B . PO George Rowen	Abuse: Police Officer George Rowen stopped the vehicle in which § 87(2)(b) was an occupant.	
C . PO Alex Campuzano	Abuse: Police Officer Alex Campuzano stopped the vehicle in which § 87(2)(b) was an occupant.	
D . PO George Gouvousis	Abuse: Police Officer George Gouvousis stopped the vehicle in which § 87(2)(b) was an occupant.	
E . DTS Jeffrey Perez	Off. Language: Detective Jeffrey Perez made remarks to § 87(2)(b) based upon race.	
F . DTS Jeffrey Perez	Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)	
G . DTS Jeffrey Perez	Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)	
H . SGT Ian Johnson	Force: Sergeant Ian Johnson participated in the use of physical force against § 87(2)(b)	
I . PO Danny Rodriguez	Abuse: Police Officer Danny Rodriguez threatened § 87(2)(b) with the use of force.	
J . PO Danny Rodriguez	Discourtesy: Police Officer Danny Rodriguez spoke discourteously to § 87(2)(b)	
K . Officers	Abuse: Officers inappropriately touched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L . PO Danny Rodriguez	Abuse: Police Officer Danny Rodriguez made a sexually suggestive remark to § 87(2)(b)	
M . SGT DS Kitwane Lewis	Abuse: Sergeant Kitwane Lewis made (a) sexually suggestive remark(s) to § 87(2)(b)	
N . DTS Jeffrey Perez	Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)	
O . PO Alex Campuzano	Abuse: Police Officer Alex Campuzano took law enforcement action based upon actual or perceived race.	
P . PO Alex Campuzano	Abuse: Police Officer Alex Campuzano took law enforcement action based upon actual or perceived gender.	
Q . PO George Gouvousis	Abuse: Police Officer George Gouvousis took law enforcement action based upon actual or perceived race.	
R . PO George Gouvousis	Abuse: Police Officer George Gouvousis took law enforcement action based upon actual or perceived gender.	
S . SGT Ian Johnson	Abuse: Sergeant Ian Johnson took law enforcement action based upon actual or perceived race.	
T . SGT Ian Johnson	Abuse: Sergeant Ian Johnson took law enforcement action based upon actual or perceived gender.	

Case Summary

On January 12, 2023, complainant § 87(2)(b) filed this complaint on behalf of himself and § 87(2)(b) with the Internal Affairs Bureau (**Board Review 01**). On January 25, 2023, the complaint was forwarded to the CCRB. The case was initially assigned to Investigator Carter Garfield in the General Investigations Division. On March 6, 2023, the case was accepted by the Racial Profiling and Biased Policing Investigations Unit and assigned to Investigating Attorney Heidi L. Guzmán.

At approximately 8:46 p.m. on January 7, 2023, § 87(2)(b) was driving in the vicinity of Saint Felix Street and Fulton Street in Brooklyn with § 87(2)(b) and § 87(2)(b) when Detective Jeffrey Perez, Police Officer George Rowen, Police Officer Alex Campuzano, and Police Officer George Gouvousis, all of the 88th precinct, stopped the vehicle (**Allegations A-D, Abuse of Authority, § 87(2)(g)**, § 87(2)(b) alleged that DTS Perez called him a “bum ass nigga” (**Allegations E-F, Discourtesy and Offensive Language, § 87(2)(g)** in a “bum ass car” (**Allegation G, Discourtesy, § 87(2)(g)**

Sergeant Ian Johnson arrived and ordered § 87(2)(b) and § 87(2)(b) to step out of the vehicle. Sgt Ian Johnson ordered officers to forcibly remove § 87(2)(b) from the vehicle (**Allegation H, Force, § 87(2)(g)**). Officers placed § 87(2)(b) and § 87(2)(b) under arrest. During the arrest of § 87(2)(b) Police Officer Danny Rodriguez used discourteous language and threatened to use force against § 87(2)(b) (**Allegations I-J, Abuse of Authority and Discourtesy, § 87(2)(g)**). During the arrest of § 87(2)(b) § 87(2)(b) accused officers of touching him inappropriately (**Allegation K, Abuse of Authority/Sexual Misconduct, § 87(2)(g)**). In response to § 87(2)(b) allegation, PO Rodriguez made a sexually suggestive remark to him (**Allegation L, Abuse of Authority/Sexual Misconduct, § 87(2)(g)**

§ 87(2)(b) and § 87(2)(b) were transported to the 088 Precinct Stationhouse, where Sergeant Lewis Kitwane made a sexually suggestive remark to § 87(2)(b) (**Allegation M, Abuse of Authority/Sexual Misconduct, § 87(2)(g)**) and DTS Perez spoke discourteously to § 87(2)(b) (**Allegation N, Discourtesy, § 87(2)(g)**). Finally, § 87(2)(b) alleged that PO Campuzano, PO Gouvousis, and Sgt Johnson treated him differently on the basis of his race and gender (**Allegations O-T, Abuse of Authority/Bias-Based Policing, § 87(2)(g)**

§ 87(2)(b) was arrested as a result of this incident. § 87(2)(b) was issued a summons.

The investigation received body-worn camera video capturing the incident (**Board Review 02**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Jeffrey Perez stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer George Rowen stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Alex Campuzano stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer George Gouvousis stopped the vehicle in which § 87(2)(b) was an occupant.

The investigation was unable to interview § 87(2)(b) or § 87(2)(b) and only obtained a civilian statement from § 87(2)(b) (**Board Review 20**).

In his statement to the CCRB, § 87(2)(b) testified on January 7, 2023, at approximately 8:45 p.m., he was in the back seat of the vehicle of his friend, § 87(2)(b) (**Board Review 03**). § 87(2)(b) girlfriend, § 87(2)(b) was sitting in the front passenger seat. § 87(2)(b) was behind § 87(2)(b) § 87(2)(b) vehicle was a Honda Accord. § 87(2)(b) did not know whether the vehicle had any modifications, such as tinted windows. § 87(2)(b) averred that he was wearing his seatbelt and later removed it as he, § 87(2)(b) and § 87(2)(b) intended to get out of the vehicle.

As § 87(2)(b) began to park near a liquor store on 4th Avenue near Fulton Street, a police vehicle activated its lights and pulled them over. DTS Perez and two or three more officers approached the vehicle; at least two officers were standing by his and § 87(2)(b)'s side of the vehicle. DTS Perez went to § 87(2)(b) on the driver's side and asked for license and registration.

In his statement to the CCRB, DTS Perez testified that on January 7, 2023, he was conducting routine patrol within the confines of the 88th Precinct with PO Rowen, PO Gouvousis and PO Campuzano (**Board Review 05**). The group of officers were in two vehicles. Though he did not recall when he first observed § 87(2)(b) vehicle, he noted that the vehicle had excessively tinted windows. All windows in the vehicle were tinted, including the front panel. DTS Perez, who was operating one of the police vehicles, pulled over § 87(2)(b). The vehicles pulled over on the side of the road. Due to the vehicle's excessive tints, DTS Perez did not know that there were three occupants inside the vehicle until he commenced the traffic stop.

The investigation received body-worn camera video from the four officers involved in the initial traffic stop, and the additional units that responded to the location (**Board Review 02**).

At 00:56 in DTS Perez's BWC, § 87(2)(b) vehicle is visible for the first time as DTS Perez approaches from the rear. The side and rear panels are heavily tinted, obscuring the interior of the vehicle. None of the officers' BWCs depict a tint reading.

The investigation received a UF-61 generated as a result of this incident (**Board Review 05**). The complaint report states that officers observed "heavily tinted" windows, triggering a vehicle stop. Upon further investigation, § 87(2)(b) and the occupants of his vehicle "refused multiple lawful orders and shouting causing public annoyance and alarm leading crowd to form." Further investigation revealed that § 87(2)(b) driving privileges were suspended. § 87(2)(b) was cited for Aggravated Unlicensed Operation of a Motor Vehicle in the 3rd, Disorderly Conduct (subsection 01), and a VTL violation for the tints.

The New York State Vehicle and Traffic Law § 375 governs equipment on vehicles, including the permissible transparency of windows (**Board Review 06**). § 375 (12-A) (b) provides that "No person shall operate any motor vehicle upon any public highway, road or street" where "the sidewings or side windows of which on either side forward of or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent."

§ 87(2)(g)
Although none of the officers conducted a tint reading during or after the stop, the BWC plainly demonstrates that § 87(2)(b)

vehicle was tinted in excess of the legal maximum. The interior of the vehicle was almost entirely obscured. § 87(2)(g)

Allegation (E) Offensive Language: Detective Jeffrey Perez made remarks to § 87(2)(b) based upon race.

Allegation (F) Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)

Allegation (G) Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that during the vehicle stop, DTS Perez stated that § 87(2)(b) was in a “bum ass car” (**Board Review 03**).

At 9:44 in DTS Perez’s body-worn camera video, § 87(2)(b) asks if the officers are cops because DTS Perez “is calling me a bum ass nigga” (**Board Review 02**). At 10:11, as Sgt Johnson approaches § 87(2)(b) vehicle, § 87(2)(b) tells Sgt Johnson that DTS Perez called him a “bum ass nigga in a bum ass car.”

In his statement to the CCRB, DTS Perez admitted that he referred to the vehicle as a “bum ass car” (**Board Review 04**). He categorically denied referring to § 87(2)(b) as a “bum ass nigga.”

Patrol Guide Procedure 200-02 mandates that officers should maintain a higher standard of integrity than is generally expected of others, respect the dignity of each individual, and render services with courtesy and civility (**Board Review 07**). “[P]ropane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct” according to Disciplinary Case No. 2017-17005, (**Board Review 08**). However, that Court held that an officer telling a bystander to “shut the fuck up,” after the bystander complained about the use of excessive force, committed misconduct because the situation was “not so chaotic that the duty of courteous and professional behavior should be overridden by the immediate need to maintain order.”

The body-worn camera video, which captures the entirety of DTS Perez and § 87(2)(b) verbal interaction, does not depict DTS Perez calling § 87(2)(b) a “bum ass nigga.” § 87(2)(g) With respect to DTS Perez’s statement that § 87(2)(b) has a “bum ass car,” § 87(2)(g)

Allegation (H) Force: Sergeant Ian Johnson participated in the use of physical force against § 87(2)(b)

§ 87(2)(b) testified that during the vehicle stop, two officers were standing by his and § 87(2)(b) s side of the vehicle (**Board Review 03**). One of the officers asked § 87(2)(b) why he did not have his seatbelt on. § 87(2)(b) conceded in his interview that he was not wearing a seatbelt at the time of the vehicle stop. He removed the seatbelt because he, § 87(2)(b) and § 87(2)(b) were about to get out of the car when they were stopped. One of the officers then asked § 87(2)(b) for his identification.

§ 87(2)(b) began to feel “attacked” and “targeted” by the officers, who began asking repeatedly for his identification. One of the officers then demanded that § 87(2)(b) exit the

vehicle. The officer then opened the car door and, with the help of other officers, physically pulled § 87(2)(b) out. The officers then forcibly handcuffed § 87(2)(b) which he characterized as a “tussle.” § 87(2)(b) initially stated that he did not resist being handcuffed. He later stated that it took approximately five minutes for officers to handcuff him because he was not cooperating.

In his statement to the CCRB, DTS Perez testified that one of the officers who conducted the vehicle stop with him observed the backseat passenger, § 87(2)(b) was not wearing a seatbelt (**Board Review 04**). The officer, whom DTS Perez could not recall, asked § 87(2)(b) for his identification to address the seatbelt violation. However, § 87(2)(b) refused to provide his ID. § 87(2)(b) then became agitated at the officers’ requests for § 87(2)(b) ID.

Because § 87(2)(b) refused to provide ID, DTS Perez asked the occupants of the vehicle to step out for the duration of the stop. DTS Perez noted that the passengers’ behavior began to raise his suspicions because in prior experience with vehicle stops, such behavior is indicative of a firearm or contraband in the car. DTS Perez believed that once all the occupants of the vehicle stepped out, officers would be able to better see their hands.

One of the officers who was working with DTS Perez called for additional units to assist with the vehicle stop. DTS Perez believed that a supervisor, Sgt Johnson, arrived along with the additional units.

In his statement to the CCRB, Sgt Johnson testified that he was called to the incident location to assist with a vehicle stop (**Board Review 09**). Sgt Johnson arrived at the location after officers had been speaking with the vehicle occupants for several minutes. The officers told Sgt Johnson that § 87(2)(b) had provided ID, but the other occupants of the vehicle refused to provide theirs. Because the other occupants of the vehicle refused to provide ID, the officers had decided to conduct the vehicle stop outside of the car. The occupants of the vehicle were resistant and had not stepped out of the car.

Sgt Johnson spoke to § 87(2)(b) and explained that the officers had the right to ask the occupants of the vehicle to step out of the car. In his interview, Sgt Johnson noted that officers may conduct a vehicle stop in this manner when they have safety concerns, which was the case in this incident. The civilians were uncooperative, which led him to suspect that they may be concealing something. § 87(2)(b) eventually stepped out of the car without incident. Sgt Johnson then went around to the other side of the vehicle to address § 87(2)(b) and § 87(2)(b) who remained inside of the vehicle.

Sgt Johnson explained to § 87(2)(b) that because he was not wearing a seatbelt, officers would issue him a summons. However, § 87(2)(b) needed to provide identification for officers to issue the summons. § 87(2)(b) refused again, and Sgt Johnson explained to him that he would be taken to the precinct for identification if he refused to comply. § 87(2)(b) refused to provide identification on scene.

Sgt Johnson further testified that officers “guided” § 87(2)(b) out of the vehicle. Sgt Johnson did not observe how § 87(2)(b) got out of the vehicle. Sgt Johnson noted that she was also suspected of not wearing a seatbelt, and that she similarly refused to provide identification. Both § 87(2)(b) and § 87(2)(b) were identified at the precinct.

After all parties were removed from the vehicle, Sgt Johnson issued the order to arrest them for purposes of bringing them back to the precinct to identify them. Sgt Johnson noted that at some point during the incident, he learned from other officers that § 87(2)(b) license was

suspended; § 87(2)(b) was arrested because of that.

At 13:07 in PO Campuzano's BWC, PO Campuzano opens the rear passenger side door closest to § 87(2)(b) after a prolonged back and forth during which § 87(2)(b) refuses to identify himself (**Board Review 02**). § 87(2)(b) steps out voluntarily and without force. § 87(2)(b) begins to grow agitated and curses at officers. Sgt Johnson asks once again for identification, which § 87(2)(b) refuses to provide. § 87(2)(b) then yells at the officers to "take me bro."

At 15:00 in PO Campuzano's BWC, several officers begin to attempt to handcuff § 87(2)(b) at Sgt Johnson's direction. The officers involved in cuffing § 87(2)(b) are PO Campuzano, PO Crooks, and PO Rivera. At 6:10 in PO Rivera's BWC, the officers attempt to cuff § 87(2)(b) and he actively resists arrest by tensing and moving his arms. § 87(2)(b) who is facing the trunk of the vehicle, is pressed up against it as officers handcuff him. An alternative view of the process is visible at 6:09 in PO Raja's BWC.

Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (**Board Review 10**). In all circumstances, any application or use of force must be reasonable under the circumstances. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In officers' use of force, and in a determination of reasonableness of that force, multiple factors are considered including the nature and severity of the crime/circumstances, actions taken by the subject and the duration of those actions, immediacy of the perceived threat or harm to any party, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, physical condition and age of the subject in comparison to the MOS, subject's violent history, if known, presence of hostile crowd or agitators, and any stimulant or narcotic use that may affect pain tolerance or the likelihood of violence.

Patrol Guide Procedure 221-02 defines active resistance as including "physical evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody" (**Board Review 11**). Passive resistance is defined as "[m]inimal physical action to prevent a member of service from performing their lawful duty" such as "failing to comply with a lawful command."

§ 87(2)(g)

§ 87(2)(b)

was actively and passively resisting arrest. § 87(2)(g)

Allegation (I) Abuse of Authority: Police Officer Danny Rodriguez threatened § 87(2)(b) with the use of force.

Allegation (J) Discourtesy: Police Officer Danny Rodriguez spoke discourteously to § 87(2)(b)

The investigation came to these specific allegations on the basis of body-worn camera video. § 87(2)(b) testified that officers also removed § 87(2)(b) from the vehicle “aggressively.” He was not able to see how § 87(2)(b) was removed from the vehicle. He provided that officers pushed her head on the top of the vehicle in the process. He specifically saw a female officer “smash” her forehead/side of the head on the top of the vehicle. He was not able to hear what was said due to the commotion.

At 7:38 in his BWC, PO Rodriguez can be heard saying to § 87(2)(b) “relax or I’m breaking your wrist, alright? Doing way too fucking much, alright?” (**Board Review 02**). At 7:47, PO Rodriguez tells § 87(2)(b) “fuck you think this is?” twice.

In his statement to the CCRB, PO Rodriguez testified that he arrived at the location in response to a call for additional units over a vehicle stop (**Board Review 12**). PO Rodriguez observed three occupants in the vehicle who were “very belligerent” and “threatening.” DTS Perez then ordered the occupants of the vehicle to step out. The civilians eventually got out of the vehicle, but were acting “very disorderly” as officers tried to bring them to the back of the vehicle.

PO Rodriguez further testified that the supervisor on scene, Sgt Johnson ordered officers to handcuff § 87(2)(b) to arrest him. As officers attempted to cuff § 87(2)(b) who was actively resisting, § 87(2)(b) also began to resist. PO Rodriguez described § 87(2)(b) as “actively, violently resisting” arrest.

PO Rodriguez stated that three officers were attempting to handcuff § 87(2)(b) but were unable to gain compliance. PO Rodriguez approached § 87(2)(b) and the officers to assist. PO Rodriguez then “torqued” § 87(2)(b)’s wrist, which enabled officers to handcuff that wrist. PO Rodriguez described this action as a “wrist lock,” which is a “simple wrist manipulation” where the officer holds the outside of the palm and pushes the person’s hand towards their bicep, creating a momentarily lock that allows officers to quickly handcuff someone.

PO Rodriguez conceded in his CCRB interview that he used some discourteous language while attempting to cuff § 87(2)(b) in an effort to gain her compliance. PO Rodriguez also told § 87(2)(b) to “relax.” When asked about telling § 87(2)(b) that he would break her “fucking wrist,” PO Rodriguez stated that he was not threatening § 87(2)(b) rather, he was advising her of the possible consequences of her continued resistance.

At 1:50 in her BWC, PO Redhead and PO Gouvousis advise § 87(2)(b) that they will have to forcibly remove her from the vehicle if she does not voluntarily step out (**Board Review 02**). PO Redhead advises § 87(2)(b) several times. At 3:14 in PO Prendergast’s BWC, PO Gouvousis and PO Redhead are seen pulling § 87(2)(b) out of the vehicle. As she is pulled out, § 87(2)(b) pushes PO Gouvousis. At 3:29, § 87(2)(b) begins to swing her arm out of the grasp of an officer and towards PO Redhead. § 87(2)(b) then brings her other arm, which is in a backhanded position, and swings towards PO Redhead, narrowly missing her face and striking PO Redhead in the chest. After this, PO Rodriguez joins the officers attempting to subdue § 87(2)(b) and makes the comments about breaking her wrist. All throughout, § 87(2)(b) and § 87(2)(b) are yelling and cursing at the officers.

As noted above, the Patrol Guide permits officers to use reasonable force to ensure the safety of a member of service or a third person (**Board Reviews 10-11**). § 87(2)(b) had swung at PO Redhead, almost making contact with the officer’s face. In light of this physical threat, the officers were justified in handcuffing § 87(2)(b) for their safety. Also noted above in Disciplinary Case No. 2017-17005 (**Board Review 08**), “profane remarks, made during stressful situations or

while an officer is trying to get a chaotic situation under control, are not misconduct.”

The investigation finds that to the extent PO Rodriguez used discourteous language and threatened to break § 87(2)(b) wrist, § 87(2)(g) The vehicle stop had progressed into a chaotic situation wherein multiple civilian parties were being engaged with outside of the containment of their vehicle and backup officers were called to the location. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (K) Abuse of Authority: Officers inappropriately touched § 87(2)(b)

§ 87(2)(b) testified that at one point during the incident, § 87(2)(b) shouted out that an officer was “grabbing his ass” (**Board Review 03**). § 87(2)(b) was on the other side of § 87(2)(b) vehicle and could not see.

In his statement to the CCRB, PO Rodriguez testified that he did not observe any officers make physical contact with § 87(2)(b) buttocks (**Board Review 12**). However, he did observe some officers conduct a routine frisk of § 87(2)(b). He did not recall which officers conducted the frisk.

In his statement, Sgt Johnson testified that he did not recall hearing § 87(2)(b) make a complaint about being groped or inappropriately touched on the scene, noting that the scene was chaotic and loud (**Board Review 09**). Sgt Johnson did not believe that any officer inappropriately touched § 87(2)(b). Sgt Johnson similarly noted that officers were required to frisk § 87(2)(b) once he was arrested; to the extent that any officer may have possibly made contact with § 87(2)(b) buttocks, it would be incidental contact consistent with a routine frisk.

In his statement, DTS Perez testified that he may have been involved in the process of handcuffing § 87(2)(b) (**Board Review 04**). He did not recall which other officers were involved. To his knowledge, no officer made contact with § 87(2)(b) buttocks or frisked him in that area. DTS Perez denied making such contact himself.

A review of the BWC in this case shows that at least three officers were involved in handcuffing § 87(2)(b). DTS Perez, PO Rowen (visible at 7:14 in PO Rivera’s BWC), and PO Jose Rivera (same as PO Rowen) (**Board Review 02**). At 16:20 in DTS Perez’s BWC, officers are attempting to handcuff § 87(2)(b) and place him under arrest. As officers try to cuff him, at 17:22, § 87(2)(b) yells out “why you grabbing my ass? This nigga grabbed my ass.” At 17:30, the officers finish handcuffing § 87(2)(b). At 16:54 in PO Rowen’s BWC, several officers are attempting to handcuff § 87(2)(b). The officers’ hands are indistinguishable from each other, and no hand is seen groping § 87(2)(b) buttocks. However, there is no clear, unobstructed view of the entire process of handcuffing § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (L) Abuse of Authority: Police Officer Danny Rodriguez made a sexually suggestive remark to § 87(2)(b)

§ 87(2)(b) testified multiple officers used profanity during the incident; he did not recall any specific statements (**Board Review 03**). § 87(2)(b) recalled that at one point, § 87(2)(b) shouted that an officer was “grabbing his ass.”

In his statement to the CCRB, PO Rodriguez conceded in his testimony that he said § 87(2)(b) had a “nice ass” and a “sweet ass” (**Board Review 12**). PO Rodriguez provided that these statements were “sarcastic” and a joke, which he intended to “lighten up the situation” and “deescalate.”

PO Rodriguez conceded that his remarks did not deescalate the encounter and that he did not receive any training on de-escalation via humor.

As noted above in the discussion of **Allegation K**, a review of the BWC in this case shows that at least DTS Perez, PO Rowen, and PO Jose Rivera were involved in cuffing § 87(2)(b) (**Board Review 02**). At 16:20 in DTS Perez’s BWC, officers are attempting to handcuff § 87(2)(b) and place him under arrest. § 87(2)(b) is pressed up against the driver’s side of his vehicle. As officers try to cuff him, at 17:22, § 87(2)(b) yells out “why you grabbing my ass? This nigga grabbed my ass.” At 17:31 in DTS Perez’s BWC, PO Rodriguez says, “you got a nice ass.” § 87(2)(b) overhears this remark and says, “nigga said I got a nice ass.” Seemingly in response, PO Rodriguez says, “you got a sweet ass.”

At 9:04 in his BWC, PO Rodriguez’s remarks about § 87(2)(b) “ass” are audible. At least six officers are in the immediate vicinity as PO Rodriguez makes these remarks. At 8:51 in Sgt Johnson’s BWC, PO Rodriguez’s commentary is heard. PO Gouvousis seemingly overhears the comment, elbows PO Rodriguez, and laughs.

Patrol Guide Procedure 200-02 mandates that officers should maintain a higher standard of integrity than is generally expected of others, respect the dignity of each individual, and render services with courtesy and civility (**Board Review 07**).

Administrative Guide 304-06 states that officers are prohibited from engaging in conduct prejudicial to good order, efficiency, or discipline of the department (**Board Review 13**).

Patrol Guide Procedure 205-36 defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature (**Board Review 14**).

The investigation finds that PO Rodriguez’s commentary was sexually suggestive. § 87(2)(b) complained of inappropriate touching. PO Rodriguez’s response served no legitimate purpose but to belittle § 87(2)(b) in a sexually demeaning fashion. Indeed, the commentary implies that § 87(2)(b) was groped because of his body. When § 87(2)(b) complained about this demeaning commentary, PO Rodriguez doubled down by stating that he had a “sweet ass.” § 87(2)(g)

Allegation (M) Abuse of Authority: Sergeant Kitwane Lewis made a sexually suggestive remark to § 87(2)(b)

In his statement, § 87(2)(b) testified that after they arrived at the stationhouse, DTS Perez continued to “antagoniz[e]” and “provoke[e]” § 87(2)(b) (**Board Review 03**). § 87(2)(b) could not recall specific statements by DTS Perez but noted that he was “messing with” him and § 87(2)(b).

§ 87(2)(b) did not mention any other officers specifically. The investigation came to this allegation on the basis of body-worn camera video.

The videos show that several officers activated their body-worn cameras, upon instruction by Sgt Lewis, as § 87(2)(b) was brought into the holding cell area to be lodged. § 87(2)(b) and § 87(2)(b) had already been lodged by that point.

PO Gouvousis’ second BWC video depicts officers lodging § 87(2)(b) (**Board Review 02**, File Name \Axon_Body_3_Video_2023-01-07_2100_PO_GOUVOUSIS.mp4). § 87(2)(b) lips are chapped and white in appearance. As the audio turns on at 1:00, Sgt Lewis states that he wanted all BWCs on to capture his instructions for § 87(2)(b) which consist of routine prisoner lodging procedures. Throughout, § 87(2)(b) repeatedly uses discourteous and offensive language towards Sgt Lewis and the other officers. He calls Sgt Lewis a “nigga” and a “faggot” repeatedly. At several points, § 87(2)(b) taunts the officers to strike him first. In the background, § 87(2)(b) also makes discourteous and offensive comments about officers being “gay nigga[s].”

At 2:12 in PO Gouvousis’ second BWC video, DTS Perez brings § 87(2)(b) to a corner and removes the handcuffs. § 87(2)(b) begins to remove his outer layers of clothing, while continually insulting the officers in the same manner. § 87(2)(b) says that the officers are “faggot ass niggas.” Sgt Lewis then states, “I don’t got white stuff on my lip. I’m good.” § 87(2)(b) says, “that was a gay nigga.”

At 4:06, officers are nearly done processing § 87(2)(b) for lodging. § 87(2)(b) continues to make countless remarks towards Sgt Lewis and the other officers. After calling Sgt Lewis a “bitch” numerous times, Sgt Lewis remarks, “as you do what I say” and groans.

In his statement to the CCRB, Sgt Lewis testified that he worked an administrative post at the 088 Precinct within his capacity as a Field Intelligence Officer (**Board Review 15**). As part of his duties, Sgt Lewis debriefs all prisoners who are lodged at the precinct and disseminates any pertinent information to other officers within the command. This administrative assignment does not require body-worn camera usage.

Sgt Lewis testified that he instructed officers to activate their body-worn cameras once § 87(2)(b) was brought to the holding cells because § 87(2)(b) was threatening officers. § 87(2)(b) made it clear that he “likes lawsuits” and had a lengthy, violent criminal history. Out of an abundance of caution, Sgt Lewis had the officers activate their cameras to capture any potential issues. Sgt Lewis noted that § 87(2)(b) appeared to be trying to goad officers into a confrontation, asking them to hit him first. However, § 87(2)(b) did follow all the instructions pertaining to his lodging.

Sgt Lewis further testified that throughout the lodging process, § 87(2)(b) was profane and made numerous remarks about his genitalia, such as telling officers to “suck my dick.” § 87(2)(b)

made repeated homophobic remarks to officers. Sgt Lewis testified that he tried to deflect the comments and engage in “banter” with § 87(2)(b) to avoid a physical confrontation.

When asked about his comment, “I don’t got white stuff on my lip. I’m good,” Sgt Lewis testified that this comment was not in response to § 87(2)(b) homophobic or sexually suggestive commentary. Sgt Lewis characterized this statement as a “deflection” from § 87(2)(b) physical threats. With respect to the “white stuff,” Sgt Lewis noted that § 87(2)(b) was visibly dehydrated. Sgt Lewis was informing § 87(2)(b) that he had “white stuff” on his lips and that maybe if he quieted down, he would feel less dehydrated, and officers would fetch him water.

Sgt Lewis testified that his comment was harmless. He noted that when dealing with “violent perps” such as § 87(2)(b) he may change his approach and “meet them where they’re at.”

Sgt Lewis denied that “white stuff” was a reference to semen. He reiterated that this comment was a reference to § 87(2)(b) dehydration.

Sgt Lewis further testified that § 87(2)(b) made comments of a sexually suggestive nature by “inviting people to do sexual favors for him.” Sgt Lewis elaborated that § 87(2)(b) stated several times that officers should “suck his dick.” Sgt Lewis noted that § 87(2)(b) commentary towards him was “trying to degrade [him] as a man.”

As noted above, Patrol Guide Procedure 205-36 defines sexual harassment as verbal or physical conduct of a sexual nature (**Board Review 14**).

§ 87(2)(g)
Up until Sgt Lewis’ remark, the back and forth between the parties did not reference § 87(2)(b) being dehydrated or needing water. Rather, § 87(2)(b) and § 87(2)(b) made repeated homophobic and derogatory remarks towards Sgt Lewis. The only logical and cogent explanation for the comment, within the context of the exchange, is that Sgt Lewis’ comment was a rebuttal to the offensive and profane assertions that he was a “faggot” or otherwise. Within this context, “white stuff” is a play on words for semen, referencing the appearance of § 87(2)(b) lips.

To be clear, the situation in the holding cells was tense. § 87(2)(b) and § 87(2)(b) were rowdy, demeaning, and offensive. § 87(2)(g)

Allegation (N) Discourtesy: Detective Jeffrey Perez spoke discourteously to § 87(2)(b)

As noted above, § 87(2)(b) testified that DTS Perez antagonized § 87(2)(b) though he could not recall specific statements (**Board Review 03**).

PO Gouvousis’ second BWC video shows that after § 87(2)(b) is processed for arrest, DTS Perez begins to place him into the holding cell (**Board Review 02**). Although complying, § 87(2)(b) continues to refer to the officers with homophobic and profane remarks. At 5:14, after § 87(2)(b) is in the holding cell, DTS Perez closes the holding cell door and states, with respect to § 87(2)(b) “maybe if he shuts the fuck up his mouth won’t be so dry.”

In his statement to the CCRB, DTS Perez conceded that he made this statement (**Board Review 04**).

§ 87(2)(g)
§ 87(2)(b) Although
§ 87(2)(b) was being profane and goading the officers, he was complying with their lawful orders.
He willingly walked into the cell without incident. § 87(2)(g)

Allegation (O) Abuse of Authority: Police Officer Alex Campuzano took law enforcement action based upon actual or perceived race.

Allegation (P) Abuse of Authority: Police Officer Alex Campuzano took law enforcement action based upon actual or perceived gender.

Allegation (Q) Abuse of Authority: Police Officer George Gouvousis took law enforcement action based upon actual or perceived race.

Allegation (R) Abuse of Authority: Police Officer George Gouvousis took law enforcement action based upon actual or perceived gender.

Allegation (S) Abuse of Authority: Sergeant Ian Johnson took law enforcement action based upon actual or perceived race.

Allegation (T) Abuse of Authority: Sergeant Ian Johnson took law enforcement action based upon actual or perceived gender.

In his statement to the CCRB, § 87(2)(b) testified that he felt targeted as a Black man (**Board Review 03**). § 87(2)(b) pointed to the difference in treatment between him and § 87(2)(b) neither of them had done anything wrong, but officers only asked § 87(2)(b) for his identification.

These allegations were pleaded against PO Campuzano, PO Gouvousis, and Sgt Johnson as they were the officers who, as depicted on BWC, asked § 87(2)(b) for his identification (**Board Review 02**).

At 1:55 in his BWC, PO Campuzano asks § 87(2)(b) for his identification. PO Campuzano asks several times, despite § 87(2)(b) repeated refusals (**Board Review 02**). At 4:17, PO Gouvousis also asks § 87(2)(b) for his identification, explaining that his failure to wear a seat belt is a VTL violation. At 4:51 in PO Gouvousis's BWC, § 87(2)(b) lowers her window; the vehicle is dark, but she appears to be wearing a seatbelt. At 13:07, Sgt Johnson asks § 87(2)(b) for his identification.

NYPD Administrative Guide Section 304-17: Department Policy Prohibiting Racial Profiling and Bias-Based Policing prohibits the Department and individual officers from intentionally engaging in bias-based policing, which it defines as “an act by a member of the [] police department. . . that relies on the actual or perceived race, national origin, color, creed, age, immigration or citizenship status, gender, sexual orientation, disability, or housing status as the determinative factor in initiating law enforcement action against an individual, rather than individual’s behavior or other information or circumstances that links a person to suspected unlawful activity” (**Board Review 16**). Racial profiling is defined as “a decision to initiate [law] enforcement action against a person [that] is motivated even in part by a person’s actual or perceived race, color, ethnicity or national origin, . . . unless the officer’s decision is based on a specific and reliable suspect description that includes not just race, age, and gender, but other identifying characteristics or information.”

A finding that a civilian's protected identity trait was the "determinative factor" in an officer's decision to take law enforcement action can be based on direct or circumstantial evidence. *Gatling v. West*, 850 Fed.App'x. 91, 97 (2d Cir. 2021); *Millan-Hernandez v. Barr*, 965 F.3d 140, 148 (2d Cir. 2020); *Bennett v. Health Mgmt. Sys., Inc.*, 92 A.D.3d 29, 40-41 (1st Dept 2011) (**Board Review 16**). Because discriminatory motive "is rarely susceptible to direct proof," it can be and often is established through circumstantial evidence." *Millan-Hernandez v. Barr*, 965 F.3d 140, 148 (2d Cir. 2020); *Bennett v. Health Mgmt. Sys., Inc.*, 92 A.D.3d 29, 40-41 (1st Dept 2011) (**Board Review 16**). Rarely is one piece of circumstantial evidence sufficient on its own to establish an officer's discriminatory motive; instead, the factfinder must consider the "totality of the relevant facts." *Washington v. Davis*, 426 U.S. 229, 242 (1976); *Leblanc-Sternberg v. Fletcher*, 67 F.3d 412, 425 (2d Cir. 1995) (**Board Review 16**). In addition, to establish that the protected identity trait was the determinative factor in the officer's decision to take law enforcement action, the preponderance of the circumstantial evidence must show that both (i) the officer's decision was motivated by the civilian's protected identity; AND (ii) the officer's stated non-discriminatory reasons for their actions were false or pretextual (i.e., the officer would not have taken the law enforcement action based on those non-discriminatory reasons alone). *St. Mary's Honor Center v. Hicks*, 509 U.S. 502, 515 (1993); *Naumovski v. Norris*, 934 F.3d 200, 217 (2d Cir. 2019); *Grella v. St. Francis Hosp.*, 149 A.D.3d 1046, 1047 (2d Dept 2017); *Bennett*, 92 A.D.2d at 36 (**Board Review 16**).

With respect to racial profiling, race does not have to be the sole, primary, or predominant motivation for the law enforcement action in question to substantiate an allegation of racially biased policing. *Village of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 265 (1977); *United States v. City of Yonkers*, 96 F.3d 600, 611-12 (2d Cir. 1996); *Floyd v. City of New York*, 959 F.Supp.2d 540, 571 (S.D.N.Y. 2013) (**Board Review 16**). If the preponderance of the evidence establishes that the civilian's race played any role in the officer's decision making, the racial profiling allegation should be substantiated, regardless of any non-discriminatory reasons the officer gives for their actions. *Yonkers*, 96 F.3d at 612; *Raza v. City of New York*, 998 F.Supp.2d 70, 79-80 (E.D.N.Y. 2013); *Bennett v. Health Sys., Inc.*, 92 A.D.3d 29, 40 (1st Dep't 2011) (**Board Review 16**). Thus, a law enforcement action that is otherwise legally justified (e.g., a vehicle stop supported by probable cause of a traffic violation or a stop to issue a summons for a pedestrian violation witnessed by the officer) can still constitute racial profiling if the officer was motivated at least in part to take the action by the civilian's actual or perceived race. *See PBA v. City of N.Y.*, 142 A.D.3d 53, 66-67 (1st Dept 2016); *Raza*, 998 F.Supp.2d at 79; *Floyd*, 959 F.Supp.2d at 667 (**Board Review 16**).

§ 87(2)(g) was a rear-seat passenger in a heavily tinted vehicle without a seatbelt. § 87(2)(b) refused to provide identification to the officers based on his mistaken belief that he was not legally required to wear a seat belt in the back seat. § 87(2)(b) appeared to be wearing a seat belt and therefore was not in violation of the Vehicle and Traffic Law, such that officers would have asked for identification. Moreover, all occupants of the vehicle were eventually arrested. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 17**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 17**).
- § 87(2)(b)

§ 87(2)(b)

- DTS Perez has been a member of service for eight years and has been a subject in three other CCRB complaints and nine other allegations, of which none was substantiated.
 - In still-pending case 202300098, DTS Perez is alleged to have used discourteous language, consisting of “if you shut your fucking mouth.”
- PO Rowen has been a member of service for eight years and has been a subject in seven CCRB complaints and fifteen allegations, of which two were substantiated:
 - 202102077 involved substantiated allegations of Abuse of Authority for failure to provide a RTKA card and Discourtesy. The Board recommended Command Discipline A and the NYPD imposed the same.
 - § 87(2)(g)
- PO Gouvousis has been a member of service for four years and has been a subject in five other CCRB cases and 16 other allegations, of which one was substantiated:
 - CCRB 202206391 involved a substantiated allegation of Discourtesy – Word. The Board recommended Command Discipline A. The NYPD did not impose any disciplinary action.
 - § 87(2)(g)
- PO Campuzano has been a member of service for eight years and has been a subject in five CCRB complaints and thirteen allegations, of which none was substantiated.
- PO Rodriguez has been a member of service for nine years and has been a subject in five CCRB complaints and nine allegations, of which none was substantiated.
- Sgt Johnson has been a member of service for twelve years and has been a subject in five CCRB complaints and twelve allegations, of which one was substantiated:
 - 202206063 involved a substantiated allegation of Abuse of Authority for a stop. The Board recommended Command Discipline A and the NYPD imposed the same.
- SGT Lewis has been a member of service for twelve years and has been a subject in eighteen CCRB complaints and forty-nine allegations, of which four were substantiated:
 - 201901804 involved a substantiated allegation of Abuse of Authority for failure to provide a RTKA card and Discourtesy. The Board recommended Command Discipline A and the NYPD imposed the same.
 - 202003111 involved substantiated allegations of Abuse of Authority for failure to provide a RTKA card and Discourtesy. The Board recommended Command Discipline B and the NYPD imposed the same.
 - 202300786 involved a substantiated allegation of Abuse of Authority for failure to provide a RTKA card and Discourtesy. The Board recommended Formalized Training and the NYPD imposed the same.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 2, 2024, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 18**).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.:	<u>Bias Squad 02</u>	Heidi L. Guzmán	
Investigator:	<u>/s/ Heidi L. Guzmán</u>	<u>Investigating Attorney</u>	<u>04/08/2024</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u>Tessa Yesselman</u>	<u>IM Tessa Yesselman</u>	<u>04/08/2024</u>
	Signature	Print Title & Name	Date
Reviewer:	<u>Bianca Victoria Scott</u>	<u>Dep. Dir. RPBP</u>	<u>04/10/2024</u>
	Signature	Print Title & Name	Date